

REMARKS

Examiner Fenn Mathew is thanked for the thorough Office Action.

In the Claims

Claims 1 to 52 are canceled. The cancellation is to expedite prosecution of the remaining claims. The cancellation of the claims is not an indication that the claims are not patentable.

Parent claim 53 is amended to add the limitations of dependent claim 55. Claim 55 is canceled. The amendment is made to more accurately clarify the embodiment claimed and is not limiting under FESTO.

Dependent Claims 56 and 57 are amended to remove the duplicate limitations of dependent claim 55 that was added to parent claim 53.

The claims are amended as shown above. No new matter is added.

Entry of all amendments is respectfully requested for purposes of appeal. The amendments place the application in better condition for appeal. The amendments are made at this time in response to the instant office action and the anticipation of streamlining discussions for appeal.

REJECTIONS OF CLAIMS – 35 U.S.C. § 102

Rejection of claims 1, 2 -5, 9, 10, 13, 16, 17 , 20, 22, 23, 25, and 52 under 35 U.S.C. § 102(b) as being anticipated by Schweitzer '356

The rejection of claims 1, 2 -5, 9, 10, 13, 16, 17 , 20, 22, 23, 25, and 52 under 35 U.S.C. § 102(b) as being anticipated by Schweitzer '356 is acknowledged.

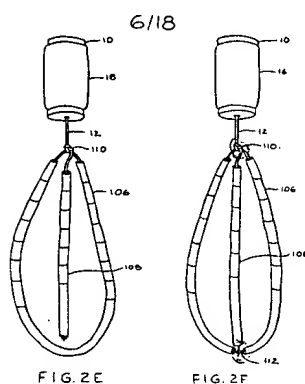
Claims 1 thru 52 are canceled.

Rejection of claims 1, 49, 53, 56, 59 and 60 under 102b as being anticipated by Bourikas '490

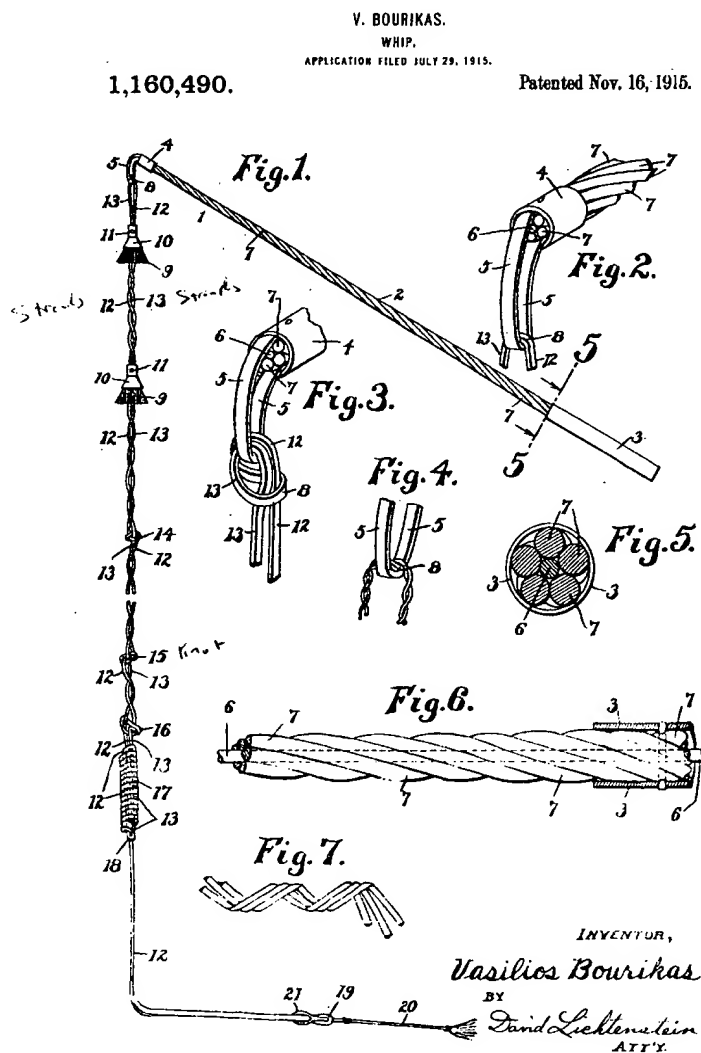
The rejection of claims 1, 49, 53, 56, 59 and 60 under 35 U.S.C. § 102b as being anticipated by Bourikas '490 is acknowledged.

Claims 1 and 49 are canceled.

An embodiment of claim 53 is shown in applicant's figure 2F below.



Amended Claim 53 is not anticipated by Bourikas. Bourikas's Whip is shown below.



Claim 53 states:

53. (CURRENTLY AMENDED) An exercising device comprised of a unit comprised of:
a handle, an elongated first element attached to said handle, and said elongated first element has at least a first loop; said first loop formed by a first loop forming device; said first loop is entirely outside of said handle;
a first segment of said elongated first element that is not part of said first loop, is between said handle and said first loop;
an elongated second element attached directly to said first loop forming device;
said elongated second element attached to said first loop by said first loop forming device and a second loop forming device;
said first loop forming device and said second loop forming device located at about opposite sides of said first loop.

The instant Office Action, paragraph 16 posits that Bourikas shows the elements of claim 53. However, applicant was unable to understand this. The instant office action does not indicate what parts or element #s of Bourikas correspond to the claim elements. Applicant requests that element numbers or further clarification be added.

Second, applying Bourikas to applicant's jump rope exercise device invention is not proper because Bourikas is whip formed from wound stands. Any interpretation of the over 50 windings and loops of Bourikas's whip is strained and not reasonable.

Bourikas does not show or suggest (un-amended or amended) claim 53's elements, especially the limitation "an elongated second element attached directly to said first loop forming device". Applicant's best interpretation of Bourikas figures 1 and 3, is: a first loop 5, a first loop forming device 4, and an elongated second element 12 13. Then Bourikas does not meet claim 53 because *Bourikas's elongated second element 12 13 NOT attached directly to said first loop forming device 4*". In contrast, as shown in figure 3, Bourikas's elongated second element 12 13 is attached directly to the first loop 5.

Bourikas also does not show or suggest claim 53's elements, especially the limitation "*said first loop forming device and said second loop forming device are located at about opposite sides of said first loop*".

Therefore parent claim 53 is not anticipated by and is non-obvious over Bourikas.

Claim 56 is non-obvious

Claim 56 states:

56. The exercise device of claim 53 which further includes said first and said second loop forming devices are knots.

Claim 56 is not suggested by Bourikas.

Claim 59 is non-obvious

Claim 59 depends from non-obvious parent claim 53.

Parent Claim 60 is non-obvious

Claim 60 states:

60. An exercising device that is held and rotated in use comprised of a unit;
said unit comprised of: a handle, a first chord attached to said handle, said first chord has a first end and a second end; only said first end of said first chord is attached to said handle; a first loop formed by attaching a first section of said first chord to a second section of said first chord using a first loop forming device; said first loop forming device is a first knot; said first loop entirely outside of said handle;
a elongated second element attached to said first loop by said first knot
and a second knot.

Parent Claim 60 is non-obvious because Bourikas does not show the elements of claim 60.

The instant Office Action, paragraph 21 posits that Bourikas shows the elements of claim 60. However, Applicant was unable to understand this. The instant office action does not indicate what parts or element #s of Bourikas correspond to the claim elements. Applicant requests that element numbers or further clarification be added.

Bourikas teaches away by showing a wound whip lashing with countless twists, devices, etc.

Bourikas does not show or suggest claim 60's elements, especially the limitation "elongated second element attached to said first loop by said first knot and a second knot.". Applicant's best interpretation of Bourikas figures 1 and 3, is: a first loop 5, a first loop forming device 4, and an elongated second element 12 13. Then Bourikas does not meet claim 60 because :

- ☐ loop forming device 4 is not a first knot. In contrast, Bourikas shows a collar member.
- ☐ Bourikas's elongated second element 12 13 is not attached to said first loop by said first knot. In contrast, Bourikas's elongated second element 12 13 is attached directly to the first loop 5.
- ☐ Bourikas's elongated second element 12 13 is NOT attached to said first loop 4 by said first knot (not shown) and said second knot (not shown).

Rejection of claims 64-73 under 35 U.S.C. § 102(b) as being anticipated by Culp (US 5,649,504)

The rejection of claims 64-73 under 35 U.S.C. § 102(b) as being anticipated by Culp (US 5,649,504) is acknowledged.

Applicant's claim 64 states:

64. (PREVIOUSLY PRESENTED) An exercising device comprised of a unit; said unit comprised of:
 a handle and an elongated element attached to said handle;
 said elongated element comprised sequentially of a first end, a first segment, a first attachment point, a second segment, a second attachment point, a third segment, and a second end;
 a first attachment device attaching said first attachment point and said second attachment point to form a loop comprised of said second segment;
 a second attachment device attaching (a) an end point on said third segment proximate said second end and (b) a point on said second segment.

Below, Figure B and figure 2F illustrate an embodiment that reads on claim 64. Figures B and 2F shows the element terms used in Claim 64. Figure B & 2F are equivalent and show corresponding elements. The figures are to aid understand claim terminology.

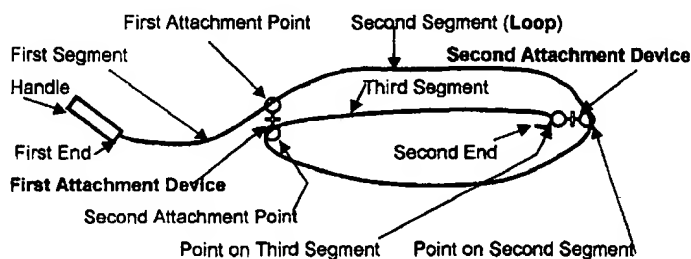


FIG. B

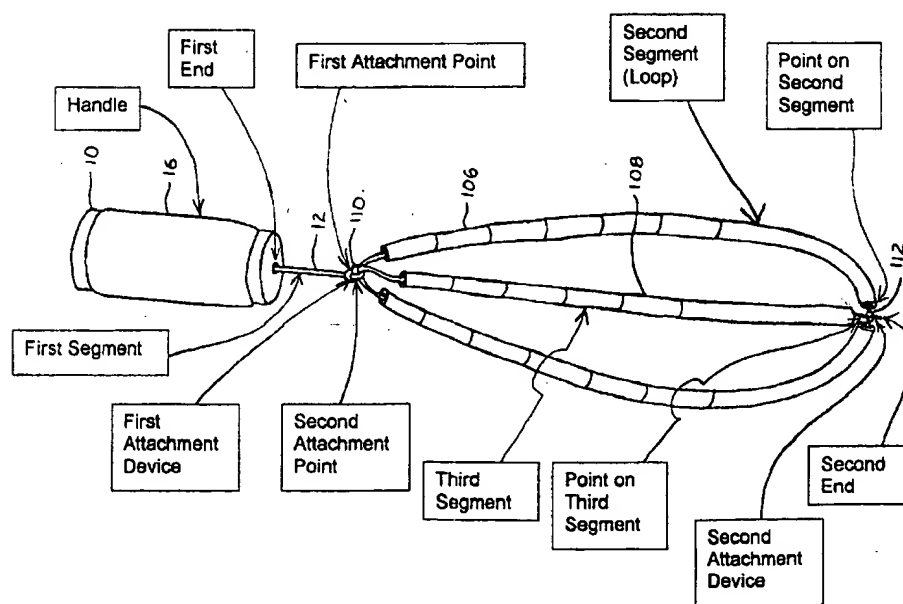


FIG. 2F

Culp does not show applicant's claim 64 elements

Culp does not show applicant's claim 64 element "*a second attachment device attaching (a) an end point on said third segment proximate said second end and (b) a point on said second segment.*"

Figure B below shows applicant's figure 2F with claim 64 element terms.

Culp figure 1 below is labeled to show corresponding elements with respect to applicant's claim 64.

NOTE THAT CULP DOES NOT SHOW A SECOND ATTACHMENT DEVICE.

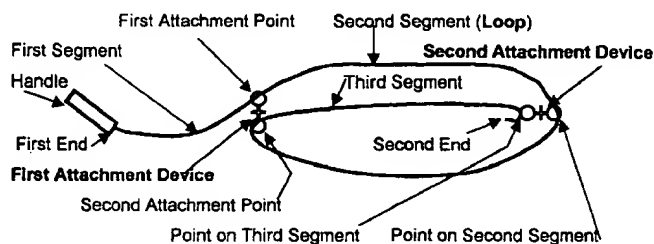
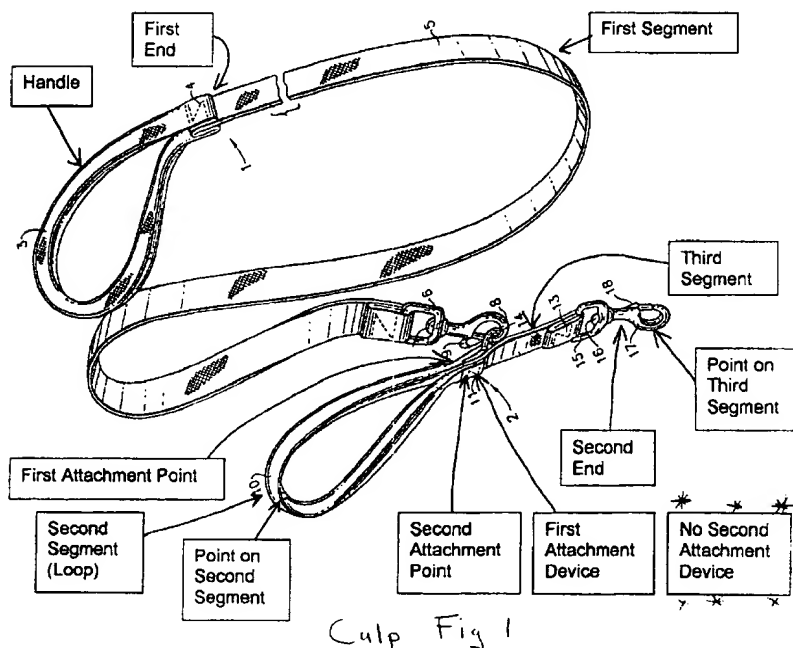


FIG. B



NOTE THAT CULP DOES NOT SHOW Claim 64's SECOND ATTACHMENT DEVICE.

For this reason, claim 64 is not anticipated by Culp. Furthermore, claim 64 is non-obvious over Culp because there is no reason to modify Culp to meet claim 64 and Culp teaches away from Claim 64.

The office action dated 10-6-03, paragraph 22 states that Culp shows all elements of claim 64, but no element numbers or other guidance is included. Applicant was unable to understand how Culp figure 1 or 2 could reasonably be interpreted to read on Applicant's claim 64. Applicant respectfully requests clarification of how Culp could read on Claim 64.

Furthermore, Culp's dog leash is not in the invention's field of use. The invention is an exercise device for simulating jumping rope. In contrast, Culp is a double leash system for controlling a dog. There is no suggestion to modify Culp toward the invention.

In addition Culp does not suggest clipping clasp 17 back on handle 10. Furthermore, it would be infeasible to do so because (1) Culp says the smaller leash 2 should be stiff so its easy to grab, which means it would be difficult if not impossible to fold back and clip handle 10. Second, Culp says to add some kind of stuffing to give stiffness to handle 10. See Culp, Col. 2, L 27-39. Culp's handle is drawn to show that it includes this internal stiffening element. Also, this handle 10 is drawn much different than long leash portion 12 that does not have any internal stiffening element. With the extra thickness of the stiffening element, Culp's clasp 17 would not even clip on the handle 10.

Claims 65 and 66 are non-obvious

Claims 65 and 66 depend from non-obvious claim 64.

Claim 67 is non-obvious

Claim 67 states:

67. The exercising device of claim 64 wherein said first attachment device further attaches said elongated element to said handle.
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Culp does not show "said first attachment device further attaches said elongated element to said handle".

The Office Action dated 10-6-03 posits that Culp shows said first attachment device further (**INDIRECTLY**) attaches said elongated element to said handle. However, this is not what claim 67 states and not what is shown in applicant's figure 2F.

Furthermore, Claim 67 depends from non-obvious claim 64.

Parent claim 68 is non-obvious over Culp.

Claim 68 states:

68. (NEWLY ADDED) An exercising device that is held and rotated in use comprised of a unit;

said unit comprised of: a handle and an elongated first element, said elongated first element has a first end and a second end;

said handle attached to said elongated first element proximate said first end; a first loop formed by attaching a first section of said elongated first element to a second section of said elongated first element using a first attachment device;

a segment of said elongated first element with a first segment-end attached to said first loop by said first attachment device; and

a second segment-end equal to said second end that is attached proximate said segment second-end to said first loop by a second attachment device.

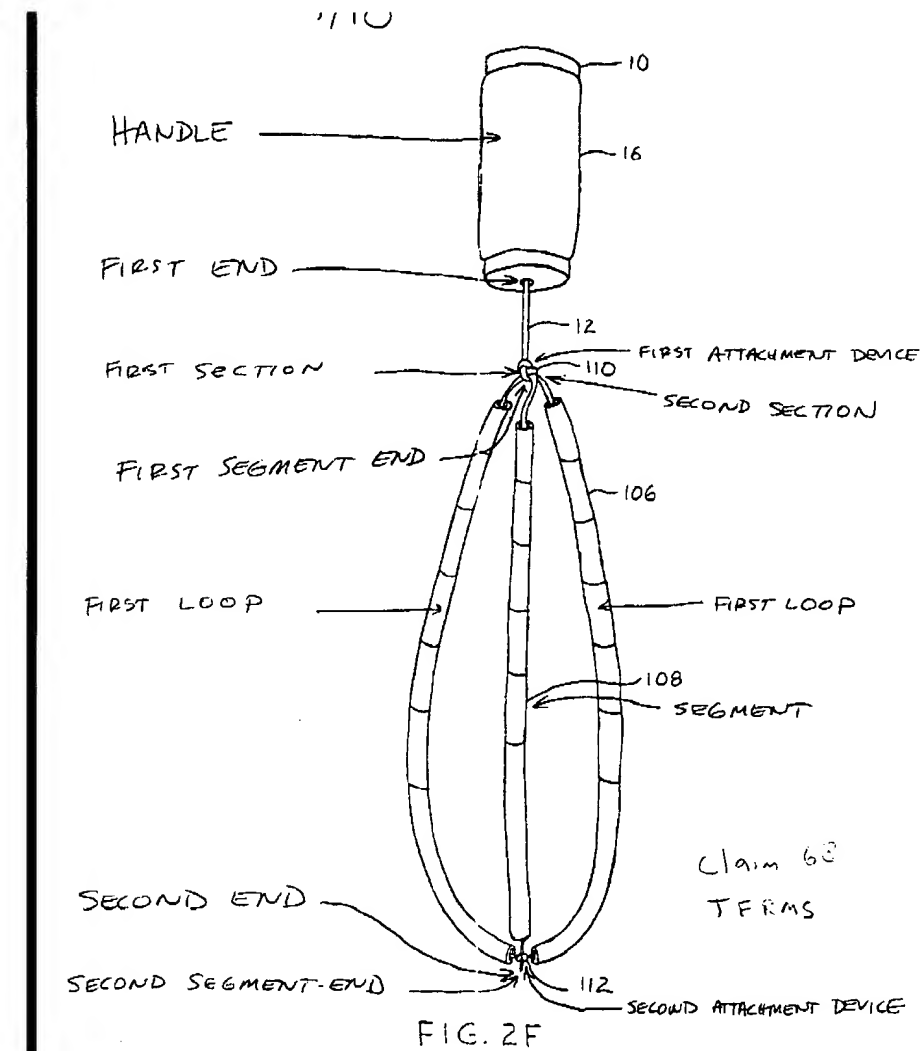
Culp does not show the following limitations of claim 68.

a first loop formed by attaching a first section of said elongated first element to a second section of said elongated first element using a first attachment device;

a segment of said elongated first element with a first segment-end attached to said first loop by said first attachment device; and

a second segment-end equal to said second end that is attached proximate said segment second-end to said first loop by a second attachment device

The labeled figure 2f below shows the terms used in claim 68. This figure was in the previous response to office action.



NOTE THAT CULP DOES NOT SHOW Claim 68's SECOND ATTACHMENT DEVICE.

For reasons similar to that stated above for claim 64, claim 68 is non-obvious over Culp. For this reason, claim 68 is not anticipated by Culp. Furthermore, claim 68 is non-obvious over Culp because there is no reason to modify Culp to meet claim 68 and Culp teaches away from Claim 68.

The Office Action dated 10-6-03, paragraph 26 posits that Culp shows the limitations of claim 68. Applicant was unable to interpret Culp to read on Claim 68. Applicant requests that element numbers or clarification be given.

Claim 69 is non-obvious

Claim 69 depends from non-obvious parent claim 68.

Claim 70 is non-obvious

Claim 70 states:

70. The exercising device of claim 68 wherein said first attachment device further attaches said elongated first element to said handle.

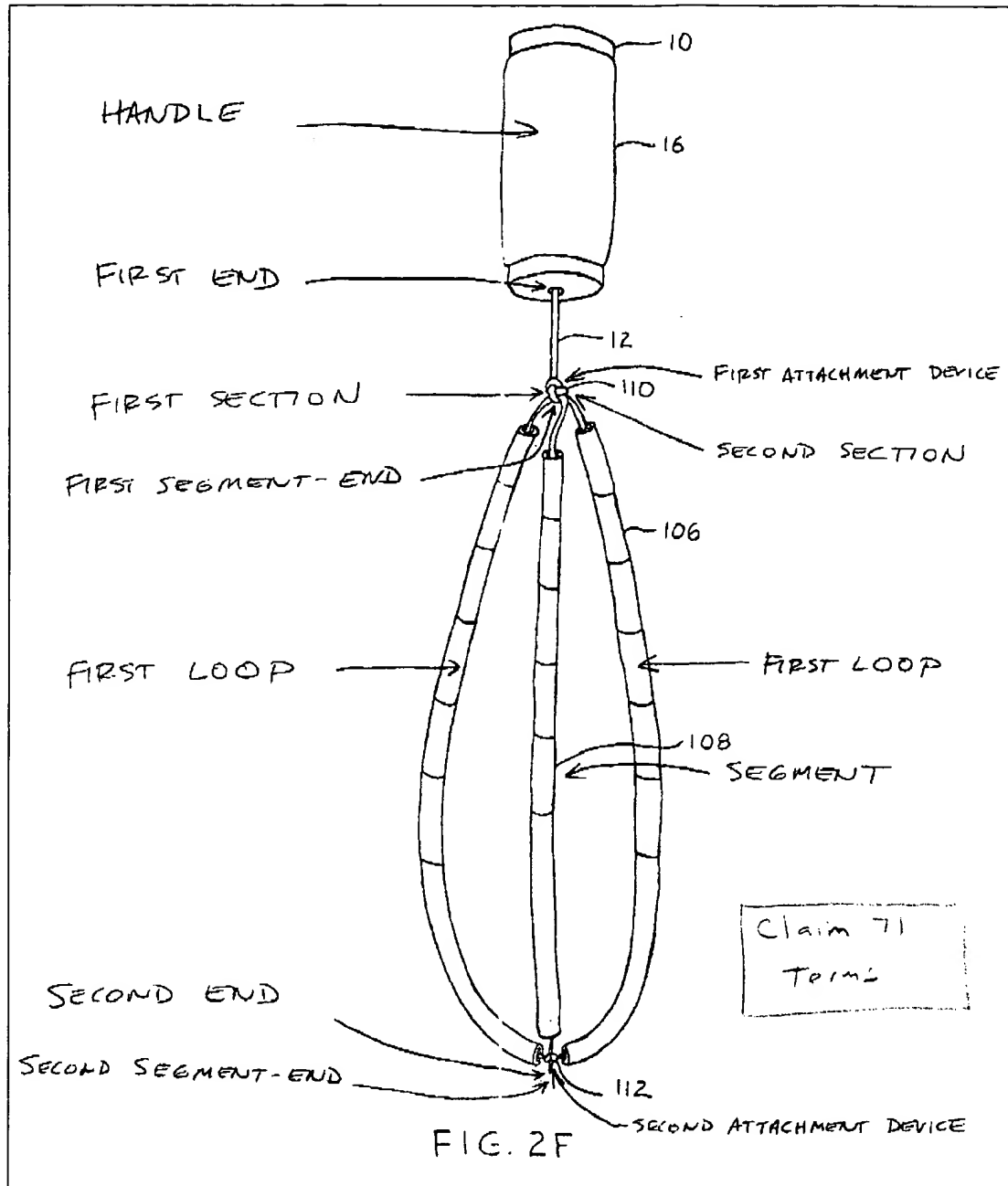
The instant Office Action paragraph 28 admits that Culp does not meet claim 70. It is improper to add "widening words" that change the meaning of the claim like "indirectly" to claims. No reasonable interpretation of claim 70 would add the word "indirectly". Furthermore, figure 2F and the specification teach away from this strained interpretation.

Claim 71 is non-obvious

Claim 71 states:

71. An exercising device that is held and rotated in use comprised of a unit;
said unit comprised of: a handle and an elongated first element,
said elongated first element comprised sequentially of a first end, a first section, a second section and a second end;
said handle attached to said elongated first element proximate said first end; a first loop formed by attaching said first section of said elongated first element to said second section of said elongated first element using a first attachment device;
a segment of said elongated first element with a first segment-end at said second section and a second segment-end at said second end; said segment attached proximate said second segment-end to said loop by a second attachment device.

Claim 71 reads on applicant's figure 2F.



Culp does not show the following elements of claim 71:

a first loop formed by attaching said first section of said elongated first element to said second section of said elongated first element using a first attachment device;
a segment of said elongated first element with a first segment-end at said second section and a second segment-end at said second end; said segment attached proximate said second segment-end to said loop by a **second attachment device**.

NOTE THAT CULP DOES NOT SHOW Claim 71's SECOND ATTACHMENT DEVICE.

For reasons similar to that stated above for claim 64, claim 71 is non-obvious over Culp. For this reason, claim 71 is not anticipated by Culp. Furthermore, claim 71 is non-

The Office Action dated 10-6-03, paragraph 29 posits that Culp shows the limitations of claim 71. Applicant was unable to interpret Culp to read on Claim 71. Applicant requests that element numbers or clarification be given.

Claim 72 is non-obvious

Claim 72 depends from claim 71.

Claim 73 is non-obvious

The instant Office Action paragraph 31 admits that Culp does not meet claim 73. It is improper to add "widening words" like "indirectly" to claims. No reasonable interpretation of claim 73 would add the word "indirectly". Furthermore, figure 2F and the specification teach away from this strained interpretation.

CLAIM REJECTIONS - 35 U.S.C. § 103

Rejection of claims 6 and 12 under 35 U.S.C. § 103(a) as being unpatentable over Schweitzer.

The rejection of claims 6 and 12 under 35 U.S.C. § 103(a) as being unpatentable over Schweitzer is acknowledged.

Claims 6 and 12 are canceled.

Rejection of claims 50, 51, 54, 55, 57, 58 and 61-63 are rejected under 103(a) as being unpatentable over Borikas.

The rejection of claims 50, 51, 54, 55, 57, 58 and 61-63 are rejected under 103(a) as being unpatentable over Borikas.

Claims 50 and 51 are canceled.

Claim 54 is non-obvious

The dimensions in claim 54 are non-obvious. No references suggest the intended purpose of the invention and therefore there is no motivation to modify any reference to meet claim 54. Furthermore, Bourikas's whip will not work with the dimensions in claim 54.

Claim 55 is incorporated into parent claim 53 that is non-obvious

The limitations of Claim 55 is incorporated into parent claim 53 that is non-obvious. Claim 55 is canceled.

Claim 57 is non-obvious

Claim 57 states:

57. (CURRENTLY AMENDED) The exercise device of claim 53 which further includes ~~said elongated second element attached to said first loop by said first loop forming device and a second loop forming device;~~
said first loop forming device is a knot; said second loop forming device is a knot;
~~said first loop forming device and said second loop forming device located at about opposite sides of said first loop;~~
the distance between said first loop forming device and said handle is less than about 2.5 inches; and
the distance from the bottom of the handle and the furthestmost point of said first elongated element is between 10 and 24 inches.

It is not obvious to modify Bourikas's Whip to meet claim 57.

Claim 57 contains the limitation of claims 54 and 56 and is non-obvious for the reasons stated above.

Claim 58 is non-obvious

Claim 58 states:

58. The exercise device of claim 53 wherein said first loop and said elongated second element at least partially covered by a tubular element; said tubular element maintains a spread-open "U" shape at the end of said first loop.

Bourikas does not suggest tublar elements. Boutikas does not suggest this claim 58 limitation: "*said tubular element maintains a spread-open "U" shape at the end of said first loop.*"

This is not a obvious minor modification. Bourikas does not form "spread open "U" shapes". In contrast, Bourikas teaches the opposite by teaching Wound tight closed whip strands.

Claim 61, 62 and 63 are non-obvious

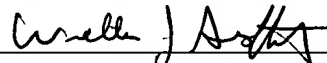
Claim 61, 62 and 63 are non-obvious for the reasons given above for claims 57, 58 and 54.

CONCLUSION

In conclusion, allowance of all claims is respectfully requested. Issuance of the application is requested.

It is requested that the Examiner telephone the undersigned attorney at (215) 670-2455 should there be anyway that we could help to place this application in condition for allowance.

Respectfully submitted,

 12/5/03

William J. Stoffel Reg. No. 39,390

William J. Stoffel
Reg no. 39,390
Customer no. 30,402

1735 Market St - Ste A
PMB 455
Philadelphia, PA 19103
215-670-2455